

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 19-mj- **5155**

NICOLE DIBBA

Defendant



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between in or about May 2018, and in or about May 2019, the defendant, Nicole DIBBA, a/k/a, Nichole Fountain, along with others, in the Western District of New York and elsewhere, conspired and agreed to devise a scheme and artifice to defraud individuals and to obtain money and property from individuals by means of false and fraudulent pretenses, representations, and promises, and for the purpose of executing such scheme and artifice did transmit writings, signs, and signals, by means of wire communication in interstate and foreign commerce.

All in violation of Title 18, United States Code, Section 1349.

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.

Kathleen A. Garver

Complainant's signature

KATHLEEN A. GARVER
Special Agent
Federal Bureau of Investigation

Printed name and title

Sworn to before me and signed in my presence.

Date: May 31, 2019

Michael J. Roemer

Judge's signature

City and State: Buffalo, New York

HONORABLE MICHAEL J. ROEMER
UNITED STATES MAGISTRATE JUDGE

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

STATE OF NEW YORK)
COUNTY OF ERIE) SS:
CITY OF BUFFALO)

Kathleen A. Garver, being duly sworn, deposes and states:

1. I am employed as a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed since 2015. The FBI is an agency within the United States Department of Justice, which is a department within the executive branch of the United States Government. I am currently assigned to the Buffalo Field Office and to the White Collar Crime Squad within that office. My duties include the investigation of such offenses as bank fraud, investment fraud, money laundering, corporate fraud, mail fraud, wire fraud, public corruption, bankruptcy fraud and other white collar crimes.

2. I make this Affidavit in support of the issuance of a Criminal Complaint charging **NICOLE DIBBA** ("DIBBA") with a violation of Title 18, United States Code, Section 1349 (Conspiracy to Commit Wire Fraud).

3. The statements contained in this affidavit are based upon my investigation, information provided to me by other law enforcement personnel, my training and experience, and the review of documents and records. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts necessary to

establish probable cause to believe that DIBBA knowingly violated Title 18, United States Code, Section 1349.

BACKGROUND OF THE INVESTIGATION

4. A “romance fraud” scheme is an orchestrated scheme to defraud and to obtain cash and property from unsuspecting victims by making romantic overtures and appealing to victims’ emotions. The scheme usually involves a conspiracy and often requires coordination between conspirators. Perpetrators of such schemes utilize dating websites to identify and target victims. In some instances, perpetrators use online services like Instagram to communicate with potential victims.

5. Instagram is a social media platform that can be accessed via the internet on a smartphone or other computer. Instagram owns and operates a free-access social-networking website of the same name that can be accessed at <http://www.instagram.com>. Instagram allows its users to create their own profile pages, which can include a short biography, a photo of themselves, and other information. The privacy settings on individual user accounts dictate who is able to view the user’s profile. If a user profile is set to “public,” then any Instagram user can view the public profile and communicate with that user.

6. Perpetrators of the romance fraud scheme engage victims, and build rapport, in a series of regular telephonic communications, text messages, and other online communications. One aspect of the romance fraud scheme involves the use of images or

photographs downloaded via the Internet that are purported to depict the individuals with whom the victims are communicating. These photographs are provided to the victims during the co-conspirators' communications with the victims.

7. Over a period of time, usually weeks, a perpetrator will gain the trust of a prospective victim through manipulation, misrepresentations, fraud and deceit. Once trust is obtained, perpetrators convince victims to transfer cash and other assets to members of the conspiracy. Perpetrators often will manufacture a false and expensive excuse that prevents the perpetrator and victim from meeting. The victim is offered a difficult choice: either pay to remove the obstacle that prevents a meeting or wait until some unknown time in the future to meet the person of his/her dreams. Since victims are emotionally invested, they often-times agree to a transfer of cash or assets. Many times victims are directed to make an electronic transfer of cash in such a manner that it becomes difficult for law enforcement agencies to trace, usually using multiple shell corporations with actual bank accounts to effectuate the transfer to members of the conspiracy. Multiple members of the conspiracy are responsible for collecting and distributing the proceeds of the fraud to other members of the conspiracy.

THE SCHEME TO DEFRAUD

8. In or about May 2018, Victim 1, a person known to the government who resides in the Western District of New York, was contacted online via Instagram by a person purportedly named RICHARD EDVIN ("EDVIN").

9. EDVIN is an alias used by an unknown member of the conspiracy to interact romantically with potential victims. EDVIN maintained Facebook and Instagram accounts utilizing images from Individual 1, a person known to the government who resides in the state of California. Individual 1 was not aware that his images were being used in furtherance of this scheme to defraud.

10. EDVIN and Victim 1 regularly began communicating online. Victim 1 thought she was communicating with the person whose images she was shown, namely Individual 1. EDVIN and Victim 1 almost immediately entered into a friendship that ultimately turned into a romantic and intimate online relationship.

11. After the initial online contact via Instagram, EDVIN communicated with Victim 1 via text messages and phone calls. EDVIN primarily used phone number (XXX) XXX-3568 to communicate with Victim 1.

12. The relationship between Victim 1 and EDVIN eventually became intense. They communicated on an almost daily basis between May 2018 through November 2018. EDVIN gained Victim 1's trust through personal and intimate conversations. EDVIN created a false and fraudulent background story for himself in order to manipulate Victim 1. He told Victim 1 that he was located in Oregon, but was going to be traveling out of the country for approximately two months to bring an oil rig off the coast of China back online.

13. While purportedly on the oil rig, EDVIN gave Victim 1 online access to a Suisse Bank account and had Victim 1 move money around from this account. This appears to be done in a further attempt to gain the trust of Victim 1. Victim 1 did access EDVIN'S bank account and moved money as directed by EDVIN. Since the account contained a substantial amount of money, Victim 1 was led to believe that EDVIN completely trusted her. The implication was that since EDVIN trusted Victim 1, Victim 1 should completely trust him.

14. EDVIN explained to Victim 1 that he wanted to meet her but was unable to travel until the oil rig was up and running. However, the oil rig had expensive repair issues that required immediate attention. EDVIN began asking Victim 1 for money to assist him with purchasing equipment to fix the oil rig. Each time EDVIN requested money, it was needed urgently for the repair.

15. EDVIN told Victim 1 that the funds were to be utilized for the maintenance and care of equipment on the oil rig, or for new equipment for the rig, and that her funds would be repaid to her upon his return to the United States. EDVIN successfully convinced Victim 1 to send money to several bank accounts.

16. EDVIN provided Victim 1 with wire transfer instructions. Victim 1 was directed by EDVIN to wire transfer money to a bank account ending in 9795 in the name of

Stoich Investments, LLC at SunTrust Bank in order to purchase parts for the oil rig. EDVIN told Victim 1 that the company EDVIN worked for had an account at SunTrust Bank.

17. On or about June 19, 2018, Victim 1 wire transferred \$40,000 from her account at M&T Bank in the state of New York to the Stoich Investments, LLC bank account ending 9795 at SunTrust Bank. The SunTrust Bank, and the account for Stoich Investments, LLC, were located in the state of Georgia.

18. The investigation has determined that upon receipt of Victim 1's \$40,000 wire transfer to the Stoich Investments, LLC SunTrust Bank account ending in 9795, \$4,000 was withdrawn in cash and \$36,000 was transferred from the Stoich Investments, LLC bank account to a bank account in China in the name of Ningbo Wanhe Industry Co LTD ("Ningbo"). Ningbo appears to be a shell company that purportedly specialized in garment accessories. Ningbo does not appear to be a true business, or a supplier of replacement parts for an oil rig.

19. On December 27, 2017, DIBBA opened SunTrust Bank account number ending in 9795 and she was the only authorized signatory on the account. When opening the account, DIBBA provided the bank with the following information for her: email address colei5611@icloud.com and telephone number (XXX)XXX-9431.

20. Between December 27, 2017 and November 30, 2018, more than \$723,000 was deposited into the SunTrust Bank account number ending in 9795. It appears from the investigation to date that the vast majority of the deposits were from individuals, or entities associated with individuals, who were the victims of a romance fraud scheme or other similar schemes to defraud. Subsequent to the SunTrust Bank account deposits referenced above, DIBBA withdrew in excess of \$232,000 in cash.

21. In addition to the \$40,000 wire to Stoich Investments, LLC, Victim 1 also conducted the following six wire transfers at the direction of EDVIN, all from her M&T Bank account located in the Western District of New York to the following financial institutions, all outside of the state of New York:

Date	Amount	Financial Institution
June 6, 2018	\$30,000	Bank of America, Georgia
June 18, 2018	\$35,000	First City Bank, Nigeria
July 6, 2018	\$50,000	First City Bank, Nigeria
July 19, 2018	\$29,500	First City Bank, Nigeria
July 30, 2018	\$14,000	First City Bank, Nigeria
August 29, 2018	\$18,000	Wells Fargo, Georgia

In total, Victim 1 sent seven wire transfers between June 6, 2018 and August 29, 2018 totaling \$216,500.

22. In addition to the seven wire transfers referenced above, between on or about June 6, 2018 and on or about November 13, 2018, EDVIN persuaded and directed Victim 1 to send funds and goods such as iTunes gift cards, a computer, speakers, headphones, and an

Apple watch, all valued at more than \$34,000, to members of the conspiracy. The total loss to Victim 1 was more than \$250,000.

NICOLE DIBBA/ STOICH INVESTMENTS, LLC

23. According to the State of Georgia Corporations Division, DIBBA is the registered agent for Stoich Investments, LLC with the physical address of 2651 Favor Road, Marietta, Georgia 30060. This address is the same address listed on DIBBA's Georgia driver's license. Stoich Investments, LLC was registered as an entity purportedly involved in "wholesale trade." Stoich Investments, LLC was formed on March 24, 2017 and was dissolved on September 7, 2018.

24. A review of SunTrust Bank records revealed that DIBBA was the sole signatory on the Stoich Investments, LLC bank account. Your affiant has reviewed bank statements and videos of transactions conducted on behalf of Stoich Investments, LLC from October 2018 until December 2018. Your affiant has also reviewed a Georgia driver's license photograph belonging to NICOLE DIBBA. The female conducting the transactions on behalf of Stoich Investments, LLC in the bank videos and the female on DIBBA's driver's license are the same individual. Our investigation has not identified anyone other than DIBBA conducting transactions on the Stoich Investments, LLC account.

25. On December 3, 2018, Special Agents from the New Orleans, Louisiana Division of the FBI interviewed DIBBA at her current residence located at 712 Village Lane

Drive, Marietta, Georgia 30060 in an unrelated but similar investigation. Special Agents interviewed DIBBA relative to the transfer of fraudulently obtained funds which passed through the Stoich Investments, LLC bank account ending in 9795 at SunTrust Bank.

26. DIBBA told the interviewing Agents that she maintained an email address of colei5611@icloud.com and that she used cellular telephone number XXX-XXX-7967. In addition, DIBBA stated that she was not the registered agent of Stoich Investments, LLC with the State of Georgia Corporations Division; she banked with Navy Federal Credit Union and Citizens First Bank; and she was unemployed but previously had worked at a doctor's office. After reviewing photographs from SunTrust Bank video footage, Special Agents from the New Orleans, Louisiana Division of the FBI who interviewed DIBBA on December 3, 2018 stated that the woman depicted in the photographs was the same individual whom they interviewed.

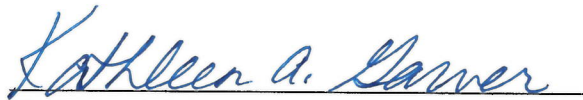
27. On December 12, 2018, subsequent to the above interview with the FBI, DIBBA emailed the interviewing Agent from her colei5611@icloud.com email address in response to a request for any documentation pertaining to Stoich Investments, LLC. DIBBA's email response stated: "I Nicole Dibba have no were about (sic) of the account documents asked forth (sic)."

CONCLUSION

28. Wherefore, in consideration of the foregoing, I respectfully submit that there is probable cause to believe NICOLE DIBBA has committed a violation of Title 18, United States Code, Section 1349 (Conspiracy to Commit Wire Fraud). I respectfully request that a Criminal Complaint and Arrest Warrant be issued for NICOLE DIBBA.

REQUEST FOR SEALING ORDER

29. It is respectfully requested that this Court issue an Order sealing, until DIBBA's arrest, all papers submitted in support of this Application, including the Application, Affidavit, and Arrest Warrant for DIBBA. Sealing is necessary because DIBBA is not aware that criminal charges are forthcoming and DIBBA's current location will need to be determined in order to execute the Arrest Warrant. Thus, there is reason to believe the immediate unsealing of the documents at this point would impair the ability of law enforcement to locate the subject and secure her appearance in Court, and could also negatively affect officer safety during the execution of the Arrest Warrant.


KATHLEEN A. GARVER
Special Agent
Federal Bureau of Investigation

Sworn to before me this 31st day
of May, 2019.


HONORABLE MICHAEL J. ROEMER
United States Magistrate Judge